

DISMIS OF SUITS AND APPEALS BENGAL AND MADRAS ACT 1841

ACT No. XXIX. OF 1841.

(Rep., Act 12 of 1873)

[13th December, 1841.]

Passed by the Right Hon'ble the Governor General of India in Council, on the 13th of December, 1841.

AN Act for amending such parts of the Bengal and Madras Codes as concern the dismissal of Suits and Appeals for neglecting to proceed in the same.

I. It is hereby enacted, that if a Plaintiff or Appellant in any Court shall, at any time, neglect to proceed in his Suit or Appeal for six weeks, the Suit or Appeal shall be dismissed; and it shall not be necessary to give the Plaintiff or Appellant any notice previous to dismissing his Suit or Appeal. The Suit or Appeal shall be dismissed as of course after the expiration of six weeks without any proceeding on the part of the Court, or of the Defendant, or otherwise, or assignment of any reasons, unless the Plaintiff or Appellant, or his representative in case of his death, upon special application, shall have previously satisfied the Court of the Propriety of allowing further time. The Court shall record upon the proceedings the reasons at large for allowing further time in all cases in which further time may be allowed, but it shall not be necessary to specify the reasons for refusing any application for further time.

II. And it is hereby enacted, that in all cases in which a Suit or Appeal is dismissed under the preceding Section the Court shall award to the Defendant or Respondent the costs he may have incurred in the Suit or Appeal. But such dismissal shall be no impediment to the institution of a new Suit or Appeal, where the party is not precluded by laps of time, or period of Appeal, or otherwise than by the mere circumstances of having instituted the Suit or Appeal dismissed and of such dismissal, and such dismissed Suit or Appeal shall not prevent lapse of time under the Law of Limitations being incurred.

III. And it is hereby enacted, that Clause 2, Section 27, Regulation XXIII. of 1814, of the Bengal Code, and Clause 2, Section 26, Regulation VI. of 1816, of the Madras Code, are repealed, and no Appeal shall lie against the decision passed in accordance with the provisions of the preceding Clauses of this Act, other than a summary appeal on the fact of default.
